

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE JOHNSON & JOHNSON
TALCUM POWDER
PRODUCTS MARKETING,
SALES PRACTICES, AND
PRODUCTS LIABILITY
LITIGATION**

MARTA DIAZ,

Plaintiff,

v.

**JOHNSON & JOHNSON and
JOHNSON & JOHNSON
CONSUMER, INC.,**

Defendants.

**MDL NO. 16-2738 (FLW)
(LHG) JUDGE FREDA
L. WOLFSON MAG.
JUDGE LOIS H.
GOODMAN**

**COMPLAINT AND JURY
DEMAND**

Civil Action No.: 3:18-cv-12454

DIRECT FILED ACTION

**SUGGESTION OF DEATH AND UNOPPOSED MOTION TO SUBSTITUTE
PROPER PARTY**

Pursuant to Federal Rule of Civil Procedure 25(a), Plaintiff files this Suggestion of Death and Motion to Substitute Proper Party and respectfully submits as follows:

1. This is a product liability action brought by Plaintiff Marta Diaz (“Plaintiff”). Plaintiff alleges that she was diagnosed with ovarian cancer as a result of her exposure to Johnson & Johnson (“J&J”) talcum baby powder products manufactured and marketed by Defendant Johnson & Johnson (“J&J”) consisting of talc mined and processed by Imerys (“Imerys”).

2. On August 3, 2018, Plaintiff filed her Original Complaint and Jury Demand against Defendants in the United States District Court District of New Jersey alleging strict product liability, negligence, breach of warranty and fraud.
3. Plaintiff died on August 30, 2019. Louis G. Apostol, Public Administrator for the County of Cook, is currently seeking appointment as supervised administrator of Ms. Diaz' estate.
4. Fed. R. Civ. P. 25(a) provides that "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by...the decedent's successor or representative." Marta Diaz' claim was not extinguished at her death and her action survives to and in favor of her heirs. 755 ILCS 5/27-6. Accordingly, Plaintiff hereby moves that Louis G. Apostol, as impending supervised estate administrator, should be substituted as the proper party for the Decedent on behalf of her estate and all wrongful death beneficiaries.

CONCLUSION & PRAYER

For all of the foregoing reasons, Plaintiff requests that the Court substitute Louis G. Apostol, as supervised administrator of the Estate of Marta Diaz, as Plaintiff in this case and for such other relief as to which he may be justly entitled.

Respectfully submitted,

/s/ Eric D. Pearson

Eric D. Pearson

Texas State Bar No. 15690472

eric@hop-law.com

HEYGOOD, ORR & PEARSON

6363 North State Hwy 161, Suite 450

Irving, Texas 75038

(214) 237-9001 Telephone

(214) 237-9002 Facsimile

COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

A copy of the foregoing was served on all counsel via the Court's ECF system on August 30, 2021.

/s/ Eric D. Pearson
Eric D. Pearson

CERTIFICATE OF CONFERENCE

This is to certify that counsel for Plaintiff conferred with counsel for Defendants regarding all matters set forth in this Motion on August 30, 2021 and that counsel for Defendants are unopposed to the relief requested herein.

/s/ Eric D. Pearson
Eric D. Pearson